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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

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WALTER ELAM,

Plaintiff,

- against- 15 Civ. 7215 (CM)

CONCOURSE VILLAGE, INC., ANTHONY

JAMES, individually, AND LETITIA BOWRY,

Individually,

Defendants.

-----X

April 6, 2016

10:23 a.m.

Deposition of Plaintiff WALTER ELAM,
held at the offices of Clifton Budd &
DeMaria LLP, 350 Fifth Avenue, New York,
New York, pursuant to Notice, before NANCY
SORENSEN, a Notary Public of the State of
New York.

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A P P E A R A N C E S:

THE HARMAN FIRM, LLP

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350 Fifth Avenue,

New York, New York 10118

BY: STEFANIE R. MUNSKY, ESQ.

- and -

CARLA B. GUNTHER, ESQ.

ALSO PRESENT:

ANTHONY JAMES

1 W. Elam

2 A. I don't. Mr. Myers was there, I
3 believe Ms. Suzio (phonetic) was there. I don't
4 remember everybody else.

5 Q. Do you recall interviewing with
6 Ms. Bowry prior to your employment at Concourse?

7 A. Ms. Bowry wasn't there.

8 Q. Who hired you for your position at
9 Concourse Village?

10 A. The board.

11 Q. Taking a step back, since we're
12 asking questions about it, do you know what
13 Concourse Village, Inc. is?

14 A. What do you mean?

15 Q. Is Concourse Village an apartment
16 complex, condo, a co-op?

17 A. It's a co-op, a Mitchell Lama.

18 Q. I'm sorry, what?

19 A. Mitchell Lama Co-Op.

20 Q. Do you know how large the property
21 is?

22 A. What do you mean by how large it is?
23 Do I know how many building they have, yes.

24 Q. Sure, how many buildings?

25 A. Six.

1 W. Elam

2 Q. Do you know how many apartment units
3 it has?

4 A. About 1,280, I believe.

5 Q. Do you know how many employees in
6 June 2015 Concourse Village employed?

7 A. A little over 50.

8 Q. When did you start your employment at
9 Concourse Village?

10 A. 2005.

11 Q. Do you recall what month?

12 A. No.

13 Q. Do you recall what title you were
14 hired for?

15 A. Stockroom supervisor.

16 Q. In 2005, what were your
17 responsibilities for the position?

18 A. I was in charge of ordering supplies,
19 maintaining the supplies, disbursing the
20 supplies. A few other things I don't quite
21 remember right now.

22 Q. Did you maintain the same title at
23 Concourse between sometime in 2005 and when your
24 employment ended in July 2015?

25 A. Yes.

1 W. Elam

2 Q. What was your work schedule when you
3 were hired in 2005?

4 A. Eight to 4.

5 Q. Did your schedule ever change between
6 when you were hired in 2005 and when your
7 employment ended in July 2015?

8 A. It changed from 9 to 5.

9 Q. Do you recall when?

10 A. No, not really.

11 Q. Was it a year before your employment
12 ended?

13 A. Probably like -- it could have been
14 two years.

15 Q. Do you know why the schedules
16 changed?

17 A. It changed because -- I don't recall
18 right now.

19 Q. Was it at your request or --
20 MS. MUNSKY: Actually, strike that.

21 Q. Was it at your request that the
22 schedules changed?

23 A. Don't recall right now.

24 Q. And in 2005 when you first started
25 working at Concourse Village, was there a

1 W. Elam

2 A. I was -- I was taught to do the
3 computer more.

4 Q. I'm sorry, taught to do what?

5 A. I was taught to do the computer, take
6 some classes they was giving, training classes.

7 Q. How else did your responsibilities
8 change?

9 A. I believe that's it that I can recall
10 right now.

11 Q. When you first started in 2005 at
12 Concourse Village, who was your supervisor?

13 A. Mr. Jones.

14 Q. Do you know what his title was?

15 A. Manager. He's on that paper you have
16 over there.

17 Q. Oh, the one underneath my folder?
18 I'll be showing you that shortly.

19 For approximately how many years did
20 Mr. Jones supervise you?

21 A. Don't recall. Two years, could be,
22 I'm not sure.

23 Q. After Mr. Jones, who was your
24 supervisor?

25 A. Maybe Desi.

1 W. Elam

2 A. Management was Desi -- I think
3 Ms. Henry was the manager.

4 Q. So after Desi, Ms. Henry was -- and
5 was Ms. Henry your direct supervisor?

6 A. Yes. She was -- yes, she was my
7 direct supervisor, but I used to take my -- but
8 the director used to tell me what to do.

9 Q. Was the director in a chain of
10 command, was Ms. Henry above the director or
11 below the director?

12 A. Yes, she was above the director.

13 Q. So it would be accurate to say that
14 the director could supervise your work?

15 A. Yes.

16 Q. After Ms. Henry, did you have -- who
17 was your direct supervisor?

18 A. It was Ms. Henry. I had a few -- no,
19 because we had a few directors. So when the
20 directors came, it was Ms. Williams was a -- she
21 was one.

22 Q. Who else were the directors?

23 A. I don't know. I had eight or nine of
24 them.

25 Q. You don't recall any of the other

1 W. Elam

2 MS. MUNSKY: I mean, sorry, strike
3 that.

4 Q. Who was your direct supervisor in
5 July 2015?

6 A. Ms. Henry.

7 Q. Who is Anthony James?

8 A. Supervisor.

9 Q. Would it be accurate to say that he
10 was your supervisor in July 2015?

11 A. No.

12 Q. What was his title?

13 A. Supervisor.

14 Q. Did he have a longer title?

15 A. Lead supervisor.

16 Q. Was it of any particular aspect of
17 the property?

18 A. What do you mean by that?

19 Q. Was he the lead supervisor of the
20 stockroom, was he the lead supervisor of
21 maintenance? I don't know, if you know his
22 exact title?

23 A. I believe it was lead supervisor of,
24 I guess, maintenance, of the maintenance guys.
25 We had quite a few lead supervisors before,

1 W. Elam

2 A. Yes.

3 Q. Now in March 2009 --

4 MS. MUNSKY: Actually, strike that.

5 Q. Is this your signature at the bottom?

6 A. Yes.

7 Q. And that date March 13, 2009, would
8 it be accurate to say that's when you created
9 and signed this document?

10 A. Yes.

11 Q. So in March 2009, what was your
12 method of keeping an adequate level of supplies
13 in the stockroom inventory at all times?

14 A. I was using Yardi. I was making -- I
15 had to make a spreadsheet of all inventory, and
16 I would give it to the director, whoever the
17 director was, every six months.

18 And then I kept track of everything
19 by -- any time anything came out of the
20 stockroom, we had to make -- get -- I had to --
21 well, they had to get it from the dispatch,
22 which came from whoever is the supervisor or the
23 director, and we would keep track of it by -- by
24 the request forms, invoices.

25 Q. So you testified that you would

1 W. Elam

2 Q. Was this always your responsibility
3 as a stockroom supervisor?

4 A. Yes.

5 Q. Then "Pick up supplies, orders,
6 directly from vendors if needed."

7 Was that always part of your
8 responsibilities?

9 A. Yes.

10 Q. "Conduct a yearly inventory of the
11 stockroom supplies and equipment."

12 A. Yes.

13 Q. Was this always your responsibility?

14 A. Yes.

15 Q. And "Order and distribute uniforms
16 for all Concourse Village maintenance staff" --

17 A. Yes.

18 Q. -- was this always your
19 responsibility?

20 A. Yes.

21 Q. Okay, now other than the eight things
22 that I've just identified, actually, it's
23 probably more than eight, but you've identified
24 them as eight, were there any other
25 responsibilities between March 2009 and July

1 W. Elam

2 Q. During this training, was there
3 anything discussed about completing inventory
4 spreadsheets?

5 A. No.

6 Q. If you look at the bottom of -- it's
7 actually the document marked D 000253 --

8 A. Yes.

9 Q. -- it says, "Step 3, completing the
10 monthly inventory"; correct?

11 A. Yes.

12 Q. Was how to complete a monthly
13 inventory discussed during your inventory
14 training?

15 A. No.

16 Q. Again, looking at the first page in
17 the e-mail from Tyrone to you, Tyrone, who is
18 Ms. Henry's boss.

19 In the second sentence it says,
20 "Please sprint" -- maybe it means print -- "and
21 review the attached for our first training which
22 we be later this month?"

23 A. Okay, what are you reading?

24 Q. I'm looking at the first in this
25 e-mail. It says, "Walter, we are going to have

1 W. Elam

2 inventory training, there was no discussion
3 about how to maintain inventory spreadsheets?

4 A. No.

5 Q. Now in September 2013, how were you
6 maintaining the lists of the materials and
7 inventory in your stockroom?

8 A. I don't understand what you mean.

9 Q. In September 2013, what was the
10 method that you used to identify what items were
11 in the stockroom and what items were needed in
12 the stockroom?

13 A. We had like the same thing I was
14 using like the spreadsheet from the computer of
15 the list of things we have and which would tell
16 me once it got low, to reorder that same thing.

17 Q. Now in September 2013, did you keep a
18 master spreadsheet of all the inventory in the
19 stockroom and how many items you had of each
20 type?

21 A. Yes.

22 Q. How frequently would you update that
23 report?

24 A. Every six months.

25 Q. So it would be accurate to say that

1 W. Elam

2 A. The type of supply and the name, like
3 washers, waste pipes, stuff like that. Like put
4 like a note on it like stickers and stuff.

5 Q. So she wanted you to go around the
6 actual stockroom and label the materials?

7 A. Yes.

8 Q. Was there any discussion about your
9 inventory tracking system during this
10 evaluation?

11 A. No.

12 Q. If you look at the next sentence, it
13 starts at the bottom of the page and goes to the
14 second page.

15 It says, "One of my main concerns is
16 that Mr. Elam must advise management when he has
17 to rush to his home to take care of emergency
18 situations."

19 A. Yes.

20 Q. So was anything discussed during your
21 meeting with Ms. Henry about this issue?

22 A. No. She asked me because it was --
23 it was an incident. Sometimes my wife --
24 Ms. Henry wasn't there.

25 So I had told -- I had told the

1 W. Elam

2 A. Yes.

3 Q. It concerns your request for an
4 increase in salary; correct?

5 A. Yes.

6 Q. Did you receive an increase in salary
7 in or about September 2014 from Concourse
8 Village?

9 A. Yes.

10 Q. Do you recall what that increase was?

11 A. It was a merit raise, I believe.

12 Q. Do you recall what the amount of that
13 increase was?

14 A. No.

15 MS. MUNSKY: Off the record for 2
16 minutes.

17 (Luncheon recess: 1:08 p.m.)

18

19

20

21

22

23

24

25

1 W. Elam

2 to be absent that day?

3 A. No.

4 Q. The meeting that you had with
5 Ms. Bowry where she said that Mr. James was now
6 your supervisor, that meeting occurred prior to
7 June 22; correct?

8 A. Yes.

9 Q. Prior to receipt of this memo, had
10 Mr. James ever told you that when you're going
11 to be absent that you needed to contact him?

12 A. No.

13 Q. Is your testimony that there were
14 never any discussions between you and Mr. James
15 about how contact you -- contact him prior to
16 being absent?

17 A. No.

18 Q. Did you have Mr. James' cell phone on
19 June 22 --

20 MS. MUNSKY: Sorry, strike that.

21 Q. Did you have Mr. James' cell phone
22 number on June 22, 2015?

23 A. I don't recall.

24 Q. Why weren't you at work on June 22,
25 2015 between 9 a.m. and 1:54 p.m.?

1 W. Elam

2 A. I called in, I took a sick day
3 because my wife told me they had moved up her
4 preoperation for surgery.

5 So I called in to dispatch. When
6 you're sick -- you take a sick day off, that's
7 protocol, to call in and let them know.

8 And then I also called in to Lillian,
9 which was my assistant and told her to make sure
10 she let's Anthony James know that I had to take
11 my wife to -- to her doctor appointment, and if
12 I could finish. I'm going to come in.

13 But that wasn't protocol. I was
14 extending that to him.

15 Q. But on June 22, 2015, he was your
16 supervisor; correct?

17 A. Yes.

18 Q. So you said that you called Lillian,
19 who is your assistant, and told her to let
20 Anthony know that you would be absent; right?

21 A. To let Anthony know. I said you
22 could let Anthony know that and anybody else
23 know that.

24 Q. Did you contact Sherill Henry on June
25 22?

1 W. Elam

2 sick day.

3 The procedures was to call in and let
4 them know you're taking a sick day. That's what
5 I did.

6 Q. What's the basis for your belief that
7 you didn't have to let your supervisor know that
8 you'd be absent?

9 A. I'm sick. That I took a sick day. I
10 took a sick day, so we never did that. We just
11 called in. That was the protocol.

12 And I still did call and leave a
13 message for him because I didn't have his
14 number. I don't believe I had his number.

15 Q. Who did you leave a message with?

16 A. With Lillian Somersle.

17 Q. Was Lillian Mr. James' assistant?

18 A. No.

19 Q. I'm going to show you a document
20 that's marked as D-19.

21 (Defendant's Exhibit D-19, a
22 presurgery testing document, marked for
23 identification, as of this date.)

24 Q. Have you seen this document before?

25 A. Yes.

1 W. Elam

2 Q. What is this document?

3 A. This is the presurgery testing.

4 Q. This is what you were referring to
5 when you said that your wife had presurgical
6 testing on June 22, 2015?

7 A. Yes.

8 Q. When did your wife first receive this
9 document?

10 A. Don't recall.

11 Q. Would it be accurate to state,
12 though, that she receive it to prior to June 22,
13 2015?

14 A. Pretty much.

15 Q. So were you aware that she had
16 presurgical testing prior to June 22, 2015?

17 A. I wasn't -- I don't recall.

18 Q. Did you notify anyone at Concourse
19 Village prior to June 22 that you would need to
20 be absent on June 22?

21 A. No, I didn't. I didn't know I had to
22 be -- I didn't know I had to be there because
23 she usually had an aide, but the aide didn't
24 come in, so I was forced, I had to take her.

25 Q. Did you ever provide this to anyone

1 W. Elam

2 supposed to come Friday to look at my computer
3 because it was the day of me supposed to have
4 this report.

5 And then I went to spoke to
6 Ms. Henry, told her that -- she told me she
7 came, another computer, and she said she called
8 the outside contractor which -- oh, excuse me.

9 It could have been Thursday because
10 it could have been -- I'm not sure if it was
11 Thursday, Thursday evening, the computer, or
12 Friday. I'm not sure.

13 Q. Prior to June 29, 2015 when you got
14 D-23 for Mr. James, did you ever tell Mr. James
15 that something was wrong with your computer on
16 June 25 or June 26?

17 A. Yes.

18 Q. When did you tell Mr. James that
19 something was wrong with your computer?

20 A. When I gave him the written, the
21 handwriting, the report I gave him, it was
22 handwritten, I said my computer's not working.
23 I said I wrote it out for you. He said just put
24 it on my desk.

25 Q. About what time was that on Friday?

1 W. Elam

2 targeting you?

3 A. I believe Mr. James was targeting me
4 because before we had -- before, I never had a
5 problem with him until I took off the time to
6 take my wife to her appointment, and the
7 statement he made after that, telling me that he
8 doesn't really care about my wife being
9 handicapped, so --

10 Q. And the time that you're referring
11 that you took off, it was -- look at D-18 in the
12 stack?

13 A. (The witness complies with request.)

14 Q. So the time that -- to rephrase my
15 question -- the time that you were referring to
16 that you took off to take -- to care for your
17 wife, it was the June 22, 2015 doctor's
18 appointment?

19 A. Yes. Actually, that wasn't the first
20 time, though.

21 Q. What was the -- what was the first
22 time?

23 A. The first time below was in June
24 11th. Around that time.

25 Q. When did you take off?

1 W. Elam

2 A. I didn't take off then, that time
3 was -- he wanted me to -- to work at a night
4 shift, and I told him that I -- it would be hard
5 for me to take a night shift. I have to take
6 care of my wife.

7 And he told me that -- his statement
8 was that -- let me make sure I say it right.
9 This is a place of business and that things
10 doesn't work around my wife because she's
11 handicapped.

12 And he said that. So I said well,
13 Concourse Village is aware of this. He tells me
14 that well, I'm in charge now.

15 Q. Is that your characterization of what
16 Mr. James said or is that a word-for-word
17 recitation of what Mr. James said?

18 A. That's pretty much word for word what
19 he said.

20 Q. Do you know whether other supervisors
21 were being requested to work a night shift?

22 A. I believe so. But that wasn't my
23 title when I was hired to work the hours he was
24 trying get me to work.

25 Q. I thought you said your title was

1 W. Elam

2 no time to tend to my wife. Exact words.

3 Q. On June 22, 2015, though, you were
4 given a sick day for caring for your wife;
5 correct?

6 A. I wasn't given nothing. I took a
7 sick day.

8 Q. Right, you were paid for that day
9 off; correct?

10 A. I have to get paid for a sick day.

11 Q. Right, but it was to care for your --
12 the reason -- you weren't sick on June 22?

13 A. No, but I got in trouble, though.

14 Q. So it's your testimony that this June
15 22, 2015 memo is getting in trouble for taking
16 the sick day, not for failing to notify your
17 supervisor?

18 A. Well, like I told you at the
19 beginning, our procedure is to call in. No one
20 said we had to -- I had to call him personally,
21 tell him I'm taking a sick day.

22 I didn't have his number. I left a
23 message with the dispatch, so I did.

24 Q. You weren't actually disciplined for
25 taking a sick day; correct?

1 W. Elam

2 did, he said you're not allowed to take off no
3 time, sick time or personal time to attend to
4 your wife.

5 Q. Did he tell you that you were being
6 disciplined or that this was a verbal warning?

7 MR. RIVERA: Objection.

8 A. Well, I don't know what you want to
9 -- I don't know what you call it, but someone
10 telling you that you can't --

11 Q. No, I'm just asking did he say to you
12 this is a verbal warning?

13 MR. RIVERA: Objection. He answered
14 the question. He told you what he said.

15 MS. MUNSKY: Okay.

16 Q. So he didn't say anything else other
17 than what you just testified to?

18 A. Yes, that I could recall.

19 Q. Again, you were paid for your sick
20 day on June 22, 2015; correct?

21 A. I believe so, yes.

22 Q. Now other than what you've testified
23 to, are there any other examples of Mr. Elam's
24 hostile work environment toward you?

25 MR. RIVERA: Objection. He's

1 W. Elam

2 25, any and all material orders for or towards
3 this facility must be approved by me. Before
4 ordering, a list of all requested items must be
5 brought to me for final authorization."

6 What was your feeling --

7 MS. MUNSKY: Sorry, strike that.

8 Q. That was a change in current
9 practice; right?

10 A. Well, not -- well, the only change it
11 was, was usually I would report to a director,
12 but she was only the supervisor, so I guess
13 that's the only change.

14 Q. What was your feelings about that
15 change?

16 MR. RIVERA: Objection.

17 A. It didn't really bother me. Like I
18 said, I had 9, 8 -- 7 or -- you know 9 or 8
19 directors -- excuse me, 8 or 9 directors before
20 him, and I had to follow procedures, so it was
21 not a problem.

22 Q. So as you sit here today looking at
23 D-27 and the sentence that "Mr. James has a
24 personal issue with me due to my initial
25 nonagreement to having the stock X reassigned to

1 W. Elam

2 Q. Did you call his work number?

3 A. I remember I (inaudible) but I called
4 the office and told them tell Mr. James that I'm
5 not coming in, I'm sick.

6 Q. Who did you speak with?

7 A. I don't recall now. It's been
8 awhile.

9 Q. Did you call Mr. James' cell phone?

10 A. I don't recall. I could have. I'm
11 not sure.

12 Q. Did you tell anyone else at Concourse
13 Village that you were calling out sick on July
14 3rd?

15 A. No. I believe I called -- I believe
16 I called Mr. James and I made -- I backed myself
17 up by sending Ms. Henry to let her know also so
18 it won't be a problem, because I felt I had to
19 make sure I covered both tracks.

20 MS. MUNSKY: Let's take a couple
21 minutes.

22 (Brief recess taken.)

23 FURTHER EXAMINATION

24 BY MS. MUNSKY:

25 Q. Mr. Elam, in May or June 2015, did

1

W. Elam

2

Mr. James?

3

A. Yes.

4

Q. When?

5

A. I don't recall.

6

MS. MUNSKY: Let's mark this as D-33.

7

(Defendant's Exhibit D-33, a

8

document, marked for identification, as of

9

this date.)

10

Q. Have you seen this document before?

11

A. Yes.

12

Q. Does it refresh your recollection as

13

to whether you were absent from work the week of

14

the 6th?

15

A. Yes.

16

Q. And what days were you absent from

17

work?

18

A. July 7th. I don't know -- I don't

19

know if the dates, if the dates or the day July

20

7 was.

21

Q. Well, it says here, "This patient was

22

seen in this office on July 7. He may return to

23

work/school on July 10, 2015."

24

So do you know if you worked on July

25

8 and July 9?

1 W. Elam

2 A. Termination document.

3 Q. And how did you receive this letter?

4 A. In a meeting with Ms. Bowry, two
5 board members. Actually it could have been
6 three. Ms. Henry, myself, security guard.

7 Q. Did anyone in this meeting say
8 anything to you?

9 A. What do you mean by that?

10 Q. Did they just hand you the letter or
11 did they say anything else in the meeting?

12 A. They just hand me -- she -- Ms. Bowry
13 hand me the letter.

14 Q. Did she say anything else?

15 A. That I was terminated, I believe.

16 Q. Did anyone else say anything in that
17 meeting?

18 A. Mr. Myers said a few things.

19 Q. What did Mr. Myers say?

20 A. He asked her -- tell her -- kept
21 saying that she couldn't -- she couldn't fire me
22 because the board didn't agree with that.

23 Q. And Mr. Myers said that in the
24 meeting?

25 A. Yup. Actually, he kept saying it.

1 W. Elam

2 A. After.

3 Q. After, okay. About how many years
4 after?

5 A. A few years.

6 Q. So in paragraph 14 it reads,
7 "Mr. Elam, his wife's primary caregiver, assumed
8 responsibility for his wife's health and safety,
9 which includes regularly taking her to doctors'
10 appointments, feeding and bathing her."

11 Who would assist her while you were
12 at work?

13 MR. RIVERA: Objection.

14 THE WITNESS: Answer it?

15 MR. RIVERA: You can answer it, yes.

16 A. Her aide I pay for.

17 Q. What's the aide's schedule?

18 A. It depends because she has a doctor
19 so -- she works sometimes 4 to 5 hours a day
20 depending what time Monica has doctor
21 appointments or therapy, so it changes.

22 She goes to therapy three times a
23 week, so her times are all different.

24 Q. So what time do you assist your wife?

25 A. After work. I usually leave like 2

1 W. Elam

2 or 3. It depends. Sometimes a little later
3 like 3:30. It depends.

4 Q. In paragraph 15 it alleges that
5 "Concourse was fully aware of Mr. Elam's wife's
6 severely comprised medical condition to wit of
7 his association with a person with a
8 disability."

9 Who was aware of your wife's medical
10 condition at Concourse Village?

11 A. All the board members that was there
12 at the time it happened, the management company,
13 and everybody in Concourse Village that know me.

14 Q. And would you say that Ms. Bowry was
15 aware of your wife's medical condition?

16 A. At first, Ms. Bowry wasn't a board
17 member or anything, but she found out once she
18 became a board member. So I'm quite sure she
19 could have heard, she knew.

20 Q. Did Ms. Henry know about your wife's
21 medical condition?

22 A. Yes.

23 Q. Did Anthony James know about your
24 wife's medical condition?

25 A. I told him, yes.

1 W. Elam

2 Q. Is it a written policy?

3 A. I believe so. It was written when I
4 started work. They told me and everybody that
5 works there have to take a day, something to
6 attend to their family, you have to take a sick
7 day off. You don't have a personal day to do
8 that.

9 Q. You were never denied as an employee
10 of Concourse Village the ability to use a sick
11 day to care for your wife; correct?

12 MR. RIVERA: Objection.

13 A. Again, I don't -- that's a sick day,
14 I don't know, how would they deny me for it?

15 Q. They wouldn't pay you for it.

16 A. Really at the end of the year, I
17 never use my sick days. I always had like seven
18 or eight every year, and I always have my
19 vacation till the end of the year. So I may
20 have got sick once or twice within that time.

21 Q. So, again, so my question, no one at
22 Concourse Village ever prohibited you from using
23 a sick day to care for your wife?

24 A. Again, I didn't use a lot of sick
25 days to care for her, but no, they haven't.

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W. Elam

You can answer the question to the extent that you can without revealing any communications that me or any other attorney gave to you.

A. Okay, because he said it out of his own mouth.

Q. What did he say and who is he?

A. Mr. James.

Q. What did he say?

A. He said that he does not care that my wife is disabled and that he's the boss, and that -- that was one of the statements he said. And I told you a couple.

Q. Why else do you believe that Concourse Village discriminated against you due to your association with your disabled wife?

MR. RIVERA: Objection. It's been asked and answered.

Q. Any other reasons why you believe that Concourse Village has discriminated against you due to your association with your disabled wife?

A. Can you repeat that again?

MS. MUNSKY: Can you repeat that?

1 W. Elam

2 COURT REPORTER: "Any other reasons
3 why you believe that Concourse Village has
4 discriminated against you due to your
5 association with your disabled wife?"

6 A. Well, again, like I said, because he
7 told me this, and afterwards I got written up.

8 And after that, they started
9 harassing me, saying everything -- like every
10 little thing, it seemed like I was getting
11 harassed, attacked, and that's why. It didn't
12 happen before then.

13 Q. When did Mr. James start working at
14 Concourse Village?

15 A. I believe in May.

16 Q. That would be May 2015?

17 A. I'm not sure. 2015, I'm not sure if
18 it was May or before then. I'm not sure.

19 Q. Other than what you've testified to,
20 is there any other reason --

21 MS. MUNSKY: Or let me strike that.

22 Q. Other than what you've testified to,
23 are there any other reasons why you believe
24 Concourse Village has discriminated against you
25 due to your association with your disabled wife?

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W. Elam

So I'm trying to find out what is the basis for your claims against Concourse Village, against Mr. James and against Ms. Bowry.

So I've already asked you questions about your claims of discrimination against Concourse Village.

So now I'm asking specific claims as to the basis for your belief that Mr. James discriminated against you due to your association with your disabled wife?

MR. RIVERA: Objection.

A. I answered that already.

Q. So is it the same reasons as what you testified to earlier concerning Concourse Village?

A. Well, my thing was Mr. James, like I said, what he said and how he respond. And Ms. Bowry, she was helping him.

Q. What is the basis for your belief that Ms. Bowry discriminated against you due to your association with your disabled wife?

MR. RIVERA: Objection.

A. Because whatever Mr. James was telling her, she was going along with it.

1 W. Elam

2 A. Oh, the write-ups, the way he was --
3 seemed like everything I was trying to -- yeah,
4 the write-ups and the things that was happening.

5 Q. Why do you believe that he was
6 writing you up?

7 A. Why do I believe?

8 Q. Yes.

9 A. Retaliation from -- I guess because,
10 you know, I don't know. I guess it's because
11 when I told him about my wife's situation, it
12 seemed like he didn't like it.

13 Q. Any other reasons?

14 MR. RIVERA: Objection.

15 A. I don't know if there's any other
16 reasons.

17 Q. Why do you believe that Ms. Bowry
18 retaliated against you?

19 A. Because she was working with Anthony.

20 Q. Any other reasons why you believe
21 that Ms. Bowry was retaliating against you?

22 A. Well, also -- what I was told that
23 she was retaliating, she was trying to -- she
24 was, how can I say -- trying to fire me, I
25 believe.

1 W. Elam

2 Q. Who told you she was retaliating?

3 A. Board member.

4 Q. Which board member?

5 A. Mr. Myers.

6 Q. Do you know what the Family and
7 Medical Leave Act is?

8 MR. RIVERA: Objection.

9 A. No.

10 Q. In your complaint, you allege that
11 defendants -- sorry, let me take that back.

12 In your complaint you allege that you
13 requested FMLA leave to care for your wife who
14 suffers from a serious health condition.

15 And then in paragraph 65, "The
16 defendants attempted to prevent plaintiff from
17 using such leave."

18 Did you ever request FMLA leave to
19 care for your wife?

20 MR. RIVERA: Objection.

21 Q. And that's leave under the Family and
22 Medical Leave Act.

23 A. They never brought it to my
24 attention.

25 Q. Sorry, what?

1 W. Elam

2 A. They never told me about it.

3 Q. Did you ever ask to take time off to
4 care for your wife and Concourse Village
5 rejected that request?

6 MR. RIVERA: Objection.

7 MS. MUNSKY: What is the basis for
8 that objection?

9 MR. RIVERA: It's a compound
10 question. There's two parts to that. Did
11 he ask for leave to care for his wife and
12 then did --

13 MS. MUNSKY: Fine, okay.

14 A. So what's the question?

15 Q. Did you ever make a request to take
16 time off to care for your wife that was denied
17 by Concourse Village?

18 A. I just worked around -- I worked
19 around it. That's the best I can do. All the
20 situations, I worked around it.

21 I didn't want to lose my job. I
22 didn't know if I was entitled to take time off,
23 how much time I could take off or anything,
24 so --

25 Q. Did you ever express to anyone at

1 W. Elam

2 A. Yes.

3 Q. After that time, did you ever ask
4 anyone --

5 MS. MUNSKY: Or sorry, strike that.

6 Q. After 2011 and your conversation with
7 Desi, did you ever communicate with anyone at
8 Concourse Village the need TO take time off to
9 care for your wife?

10 A. Again, like I said, I just worked
11 around it. I don't recall exactly what
12 happened. It was awhile.

13 I WAS going through some stuff and I
14 just tried TO work around IT as best I could.

15 Q. During the time when Anthony James
16 was at Concourse Village, did you ever ask him
17 TO take time off to care for your wife?

18 A. Once I told him that I took the time
19 off to care for my wife, he told me I couldn't
20 do it.

21 That's not the procedure of Concourse
22 Village and he told me I couldn't do it. So how
23 can I ask him when he told me no?

24 Q. So that was on June 22, 2015; right?

25 A. June 11, I believe.

1 W. Elam

2 Q. All right, why did you need to take a
3 day off to care for your wife?

4 A. I had to take her to some
5 appointments she had to go to. Doctor
6 appointments and stuff.

7 Q. And you did that on June 22; correct?

8 A. That was the day after I got written
9 up that I didn't want to do it no more.

10 Q. So between July 22 and July 13, what
11 days did you need to take off to care for your
12 wife?

13 A. I don't recall the days, but there
14 was more days?

15 Q. How many days?

16 A. Like three or four more days.

17 Q. What was the reason for that?

18 A. I had to take her to a doctor
19 appointment.

20 Q. It's your testimony that you never
21 asked anyone at Concourse Village whether you
22 could take those days off?

23 MR. RIVERA: Objection.

24 A. Again, I told you that once I got
25 written up for taking a day off, I didn't want

1 W. Elam

2 there's FMLA versus not, I'm asking
3 specifically about time off.

4 Q. So why do you believe that defendants
5 attempted to prevent you from using time off to
6 care for your wife?

7 A. Because when I took the time off, I
8 got written up and suspended.

9 Q. In paragraph 71 of your complaint, it
10 alleges that "Defendants granted plaintiff FMLA
11 leave to care for his wife who suffers from a
12 serious health condition."

13 Were you granted leave under the
14 Family and Medical Leave Act at Concourse
15 Village?

16 A. No.

17 Q. So that statement is false?

18 A. What statement was that?

19 Q. "Defendants granted plaintiff FMLA
20 leave to care for his wife who suffers from a
21 serious health condition."

22 A. Where is that at?

23 Q. It's in paragraph 71 of your amended
24 complaint.

25 MR. RIVERA: (Indicating.)